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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,439	10/07/2006	**Shoji Taniguchi**	8048-1164	4765

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EXAMINER	
ILUYOMADE, IFEDAYO B	
ART UNIT	**PAPER NUMBER**
2627	

NOTIFICATION DATE	DELIVERY MODE
12/24/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No.	Applicant(s)	
	10/577,439	TANIGUCHI ET AL.	
	Examiner	Art Unit	
	IFEDAYO ILUYOMADE	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 September 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 April 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment filed on 09/10/2009 has been entered. Claims 12 – 22 are still pending.

Response to Arguments

2. Applicant's arguments, see page 2, filed 09/10/2009, with respect to the rejection(s) of claim(s) 12 - 22 under obviousness-type double patenting have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Narumi et al (US Pub. 20030185121).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims **12 and 20 - 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Narumi et al (US Pub. 20030185121) in view of Hirotsune et al (US Patent No. 7102987).

5. Regarding claim **12**, Narumi discloses in the specification:

- A first recording layer for recording, (refer to fig. 3 and paragraph 86. Describes a first information recording layer).
- A second recording layer for recording, said first recording layer and said second recording layer arranged in this order as viewed from an irradiation side of the

laser light, (refer to fig. 3 and paragraph 86. Describes a second information recording layer on the first layer).

- Wherein said second recording layer has a predetermined area in which power calibration is performed to detect an optimum recording power of the laser light for recording, which is transmitted through said first recording layer, (refer to fig. 3 and paragraph 99. Describes laser light for recording information in the second test recording area passing through the first information layer).
- Said first recording layer has a facing area which faces the predetermined area, the facing area having embossed pits, and light transmittance of the facing area being same as that of a recorded area on said first recording layer, (refer to fig. 11 and paragraph 167. Describes the testing area of the second information layer facing the reproduction-only area of the first information area).

6. Narumi lacks facing area having embossed pit.

7. Hirotsune teaches embossed pit:

- A map or list of information indicative of the existing positions or addresses of all the restricted blocks are prerecorded as encoded data or encrypted data on a specific area or desirably on a read-only area where information is recorded by embossed pits.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the function taught by Hirotsune with that of Narumi for the purpose of reading information about the data on the information recording medium.

8. Regarding claim **20**, Narumi discloses in the specification:

- A first recording layer for recording, (refer to fig. 3 and paragraph 86. Describes a first information recording layer).
- A second recording layer for recording, said first recording layer and said second recording layer arranged in this order as viewed from an irradiation side of the laser light, (refer to fig. 3 and paragraph 86. Describes a second information recording layer on the first layer).
- Wherein said second recording layer has a predetermined area in which power calibration is performed to detect an optimum recording power of the laser light for recording, which is transmitted through said first recording layer, (refer to fig. 3 and paragraph 99. Describes laser light for recording information in the second test recording area passing through the first information layer).
- Said first recording layer has a facing area which faces the predetermined area, the facing area having embossed pits, and light transmittance of the facing area being same as that of a recorded area on said first recording layer, (refer to fig. 11 and paragraph 167. Describes the testing area of the second information layer facing the reproduction-only area of the first information area).
- Said information recording apparatus comprising: a writing device for writing test-writing information into said second recording layer on the basis of the laser light for recording, (refer to fig. 9 and paragraph 144 - 148. Describes an optical head including a laser source and focusing laser light to desired position of an information recording layer whereby test is formed on the second information layer by passing through the first information layer).

- A test-writing control device for controlling said writing device to test-write the test-writing information for the power calibration of the laser light for recording with respect to said second recording layer, in the predetermined area through the facing area, (refer to fig. 9 and paragraph 144 – 148. Describes a system controller section that controls the operation of the information recording apparatus).

9. Narumi lacks facing area having embossed pit.

10. Hirotsune teaches embossed pit:

- A map or list of information indicative of the existing positions or addresses of all the restricted blocks are prerecorded as encoded data or encrypted data on a specific area or desirably on a read-only area where information is recorded by embossed pits.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the function taught by Hirotsune with that of Narumi for the purpose of reading information about the data on the information recording medium.

11. Regarding claim **21**, Narumi discloses in the specification:

- A first recording layer for recording, (refer to fig. 3 and paragraph 86. Describes a first information recording layer).
- A second recording layer for recording, said first recording layer and said second recording layer arranged in this order as viewed from an irradiation side of the laser light, (refer to fig. 3 and paragraph 86. Describes a second information recording layer on the first layer).

- Wherein said second recording layer has a predetermined area in which power calibration is performed to detect an optimum recording power of the laser light for recording, which is transmitted through said first recording layer, (refer to fig. 3 and paragraph 99. Describes laser light for recording information in the second test recording area passing through the first information layer).
- Said first recording layer has a facing area which faces the predetermined area, the facing area having embossed pits, and light transmittance of the facing area being same as that of a recorded area on said first recording layer, (refer to fig. 11 and paragraph 167. Describes the testing area of the second information layer facing the reproduction-only area of the first information area).
- Said information recording apparatus comprising: a test-writing control process for controlling said writing device to test-write the test-writing information for the power calibration of the laser light for recording with respect to said second recording layer, in the predetermined area through the facing area, (refer to fig. 9 and paragraph 144 – 148. Describes a system controller section that controls the operation of the information recording apparatus).

12. Narumi lacks facing area having embossed pit.

13. Hirotsune teaches embossed pit:

- A map or list of information indicative of the existing positions or addresses of all the restricted blocks are prerecorded as encoded data or encrypted data on a specific area or desirably on a read-only area where information is recorded by embossed pits.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the function taught by Hirotsune with that of Narumi for the purpose of reading information about the data on the information recording medium.

14. Regarding claim **22**, Narumi discloses in the specification:

- A first recording layer to record therein first information which is at least one portion of record information, (refer to fig. 3 and paragraph 86. Describes a first information recording layer).
- One or a plurality of second recording layers, which are disposed on said first recording layer, to record therein second information which is at least another portion of the record information, (refer to fig. 3 and paragraph 86. Describes a second information recording layer on the first layer).
- Wherein each of said second recording layers has a predetermined area in which power calibration is performed to detect an optimum recording power of laser light for recording, which is transmitted through said first recording layer and other layers of said second recording layers, said first recording layer, the other layers of said second recording layers, and said each of said second recording layers arranged in this order as viewed from an irradiation side of the laser light, (refer to fig. 3 and paragraph 99. Describes laser light for recording information in the second test recording area passing through the first information layer).
- In a facing area which faces the predetermined area in the other layers of said second recording layers and said first recording layer, by forming embossed pits, light transmittance of the facing area is made closer to (i) light transmittance

under an assumption that (i-1) the embossed pits are not formed and that (i-2) the other layers and said first recording layer are already recorded, as compared to (ii) light transmittance under an assumption that (ii-1) the embossed pits are not formed and that (ii-2) the other layers and said first recording layer are unrecorded, (refer to paragraph 103. Describes when the recording and reproduction area has information recorded therein, the light transmittance of a recorded area in the recording and reproduction area is different from the light transmittance of the reproduction-only area).

15. Narumi lacks facing area having embossed pit.

16. Hirotsune teaches embossed pit:

- A map or list of information indicative of the existing positions or addresses of all the restricted blocks are prerecorded as encoded data or encrypted data on a specific area or desirably on a read-only area where information is recorded by embossed pits.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the function taught by Hirotsune with that of Narumi for the purpose of reading information about the data on the information recording medium.

17. Claims **13, 14, 15, 17, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Narumi et al (US Pub. 20030185121) in view of Hirotsune et al (US Patent No. 7102987).

18. Regarding claim **13,** Narumi discloses in the specification:

- Wherein the predetermined area is smaller than the facing area, (refer to fig. 11 and paragraph 167. Describes the testing area of the second information layer facing the reproduction-only area of the first information area, where the testing area is smaller).

19. Regarding claim **17**, Narumi discloses in the specification:

- Wherein said first recording layer has a first predetermined area in which the power calibration is performed for said first recording layer, in an area different from the facing area, (refer to fig. 11 and paragraph 167. Describes a testing area in the first information recording layer which is not the reproduction-only area).

20. Regarding claim **19**, Narumi discloses in the specification:

- Wherein at least one of said first recording layer and said second recording layer further has a management area to record therein a value of the detected optimum recording power, (refer to paragraph 161. Describes preferable means of recording the transmittance correction coefficient s for determining the optimum recording power in a specific area in the optical disc (for example, the first reproduction-only area or the second reproduction-only area).

21. Regarding claim **14**, Narumi lacks:

- Wherein encryption information for encrypting or decrypting record information is recorded by forming the embossed pits, in the facing area.

22. Regarding claim **15**, Narumi lacks:

- Wherein control information for controlling at least one of a recording operation and a reproduction operation of the record information is recorded by forming the embossed pits, in the facing area.

23. Regarding claims **14 and 15**, Narumi lacks facing area having embossed pit.

24. Hirotsune teaches embossed pit:

- A map or list of information indicative of the existing positions or addresses of all the restricted blocks are prerecorded as encoded data or encrypted data on a specific area or desirably on a read-only area where information is recorded by embossed pits.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the function taught by Hirotsune with that of Narumi for the purpose of reading information about the data on the information recording medium.

25. Claim **16** is rejected under 35 U.S.C. 103(a) as being unpatentable over Narumi et al (US Pub. 20030185121) in view of Hirotsune et al (US Patent No. 7102987).

26. Regarding claim **16**, Narumi discloses in the specification:

- Wherein at least one of said first recording layer and said second recording layer further has a management information recording area to record therein management information, (refer to paragraph 161. Describes the use of Rom to manage information of the disc).

27. Narumi lacks:

- Identification information for identifying whether or not the embossed pits are formed in the facing area is recorded in the management information recording area, as the management information.

28. Hirotsune teaches:

- A map or list of information indicative of the existing positions or addresses of all the restricted blocks are prerecorded as encoded data or encrypted data on a specific area or desirably on a read-only area where information is recorded by embossed pits.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the function taught by Hirotsune with that of Narumi for the purpose of recording information about the data on the information recording medium for managerial reasons.

29. Claim **18** is rejected under 35 U.S.C. 103(a) as being unpatentable over Narumi et al (US Pub. 20030185121) in view of Hirotsune et al (US Patent No. 7102987).

30. Narumi lacks:

- Wherein said second recording layer has a second predetermined area in which the power calibration is performed for said second recording layer, in an area which is different from the predetermined area and which does not face the facing area.

It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IFEDAYO ILUYOMADE whose telephone number is (571)270-7118. The examiner can normally be reached on Mon. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph H. Feild/
Supervisory Patent Examiner, Art Unit 2627

IBI
12/17/2009